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[Williams v. Public Service Electric & Gas Co., 94-ERA-2 \(Sec'y June 8, 1994\)](#)
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DATE: June 8, 1994
CASE NO. 94-ERA-0002

IN THE MATTER OF

BERT E. WILLIAMS,

COMPLAINANT,

v.

PUBLIC SERVICE ELECTRIC & GAS CO.,

RESPONDENT. [1]

BEFORE: THE SECRETARY OF LABOR

FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT

This case arises under the employee protection provision of the Energy Reorganization Act of 1974 (ERA), as amended, 42 U.S.C. § 5851 (1988). The parties submitted to the Administrative Law Judge (ALJ) a Joint Motion to Dismiss Complaint with Prejudice and Approve Settlement. The ALJ issued a Recommended Decision and Order Approving Settlement Agreement (R.D. and O.) on May 3, 1994.

Since the parties' request for approval is based on a settlement agreement ("Agreement") entered into by the parties, I must review it to determine whether the terms are a fair, adequate, and reasonable settlement of the complaint. 42 U.S.C. § 5851(b)(2)(A); *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Thompson v. United States Department of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89-ERA-10, Sec. Order, Mar. 23, 1989, slip op. at 1-2.

The Agreement encompasses the settlement of matters arising under various laws, only one of which is the ERA. See Sec. 1.

[PAGE 2]

For the reasons set forth in *Poulos v. Ambassador Fuel Oil Co., Inc.*, Case No. 86-CAA-1, Sec. Ord., Nov. 2, 1987, slip op. at 2, I have limited my review of the Agreement to determining whether its terms are a fair, adequate and reasonable settlement of Complainant's allegations that Respondent violated

the ERA.

Section 11 provides that the parties shall keep the Agreement confidential and shall not disclose its terms "unless required by law, or as directed by any administrative agency or any civil or criminal court of competent jurisdiction." The parties' submissions become part of the record in the case and the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (1988), requires federal agencies to disclose requested records unless they are exempt from disclosure under the Act. See *Hamka v. The Detroit Edison Co.*, Case No. 88-ERA-26, Sec. Order to Submit Attachments, Dec. 9, 1991, slip op. at 2, n.1.

The parties have submitted the Agreement pursuant to the Department of Labor's regulation implementing the FOIA and have designated certain terms in the Agreement as confidential commercial information. See 29 C.F.R. § 70.26(b). Accordingly, the parties will be notified prior to release of any information they have designated as confidential. 29 C.F.R. § 70.26(c). As custodian of the documents, the Office of Administrative Law Judges is directed to place a notice prominently displayed in the record of this case referring to the request and directing that the procedures in 29 C.F.R. § 70.26 be followed if an FOIA request is received that encompasses the settlement agreement.

I find that the Agreement, as here construed, is a fair, adequate, and reasonable settlement of the complaint. Accordingly, I approve the Agreement and DISMISS the complaint with prejudice. See Sec. 2.

SO ORDERED.

ROBERT B. REICH
Secretary of Labor

Washington, D.C.

[ENDNOTES]

[1] The titles of the parties are changed to "Complainant" and "Respondent" to conform to the practice under Section 211 of the Energy Reorganization Act of 1974.